

MINUTES
YORK COUNTY PLANNING COMMISSION

Regular Meeting
York Hall
April 11, 2001
7:00 PM

MEMBERS

Spencer W. Semmes, Chair
Andrew A. Simasek, Vice Chair
Robert E. Beil, Jr.
Robert D. Heavner
Michael H. Hendricks
Thomas G. Shepperd
Ann F. White

CALL TO ORDER

Chair Spencer Semmes called the meeting to order at 7:00 p.m. All of the members were present. Staff members present were James E. Barnett, Jr., J. Mark Carter, Timothy C. Cross, Michael S. King, and Olivia D. Wilkinson.

APPROVAL OF MINUTES

Ms. White moved to adopt the minutes of the regular meeting March 14, 2001, and the motion passed 7:0. Mr. Hendricks moved the adoption of the minutes of the work session on March 28, 2001, and they were adopted by roll call vote of 7:0.

REMARKS BY THE CHAIR

The Chair welcomed visitors and explained the legal mandate of the Planning Commission, its composition of citizen volunteers, and its mission as an advisory body to the Board of Supervisors for all land use issues.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. UP-574-01, Williamsburg Christian Academy: Chair Semmes announced that this application was withdrawn by the applicant.

Application No. YVA-6-01, Howard and Marion Clayton: Request to construct a 2,332-square foot single-family detached home, pursuant to Section 24.1-327(b) of the York County Zoning Ordinance, on an undeveloped 0.19-acre parcel located at 115 Smith Street within the Yorktown Village Activity (YVA) zoning district.

Mr. Tim Cross, with the assistance of a brief video presentation, summarized the staff report to the Commission dated April 2, 2001 in which the staff recommended approval of this application.

Mr. Simasek questioned how the applicants' proposal compares to the proposed Yorktown Historic District Guidelines, and Mr. Cross said the application is in conformance with the proposed Guidelines except the requested use of vinyl siding. Mr. Simasek questioned the compliance of the proposed garage, and Mr. Cross replied that the garage would be permitted as proposed, in his opinion, although the lot coverage is slightly greater than the Guidelines would allow.

Mr. Semmes asked if the proposed 25-foot setback is typical of other homes in the historic district, and Mr. Cross said it is not inconsistent with the other homes on Smith Street.

Chair Semmes opened the public hearing.

Mrs. Marian Clayton, 119 Smith Street, spoke in behalf of her application. Mrs. Clayton thought that the staff report was thorough and thanked the staff, but she felt the report was misleading in stating that the use of vinyl siding would be inconsistent "with the character and siding materials used on homes immediately surrounding the proposed structure nor in this part of the Yorktown Village." She cited a number of residential structures in Yorktown Village that use various types of siding, both vinyl and aluminum, and other surface finishes that are less desirable, in her opinion, than siding. She did not understand the prohibition against vinyl siding.

Mrs. Clayton said that she and Mr. Clayton have been active participants in Yorktown since 1988 and have supported the village and their neighbors. Since her husband suffered a debilitating stroke, she said, it has been very difficult to live in their present home with no bedroom or full bath on the first floor. They are anxious to build their new home and the time it has taken to get all of the information and permits have cost them around \$10,000, according to Mrs. Clayton.

Mrs. Clayton said their preference for vinyl siding, a sample of which she showed to the members, is related to their desire and need for an attractive and maintenance-free home. All of the architects and designers they consulted recommended vinyl siding as most maintenance-free, she added. She said if the application is approved, their new structure will reflect positively on Yorktown and will blend with the rest of the neighborhood. She added that they are going to install a costly wheelchair lift accessible from inside the garage rather than a ramp outside their home, indicating their concern for aesthetics.

Mrs. Clayton noted that the proposed Yorktown Historic District Guidelines are not approved and may not be approved as drafted, and she asked that they not be deprived of using their choice building material for the sake of compliance with an unapproved document. Mrs. Clayton requested a recommendation of approval.

Mr. Heavner inquired of their plans for the existing house, and Mrs. Clayton replied that it had been sold.

Mrs. Edith Elliott, 220 Bacon Street, lives adjacent to the Claytons. She believes they are assets to the community and, because of their deep feeling and love for Yorktown, she is sure their home will reflect pride and good taste as well as help maintain the atmosphere in Yorktown that its residents would like to have.

Ms. Lisa Moberg, 800 Link Road, is the designer who helped the Claytons develop a handicapped-accessible, maintenance-free plan for their house. She is a proponent of good-quality vinyl siding for residential structures, acknowledging that there also are cheap sidings available, which she would not recommend. She believed that high quality vinyl siding is superior to aluminum siding.

Mr. Shepperd inquired of the added cost if the house were to be built of brick, and Mr. Clayton said brick would cost six to seven percent more than vinyl siding.

Mr. George E. Bennett, Jr., 107 Wind Forest Lane, purchased the Claytons' home, which he is currently renting to them. He agreed with the statements of Mrs. Elliott, adding that he and his wife would support whatever the applicants select for their home because they would want it to be an asset to the community.

Mrs. White asked why the proposed Yorktown Historic District Guidelines prohibit the use of vinyl siding in the historic core, and Mr. Carter explained that the Guidelines were drafted based on the predominant character of the development in the historic core. He indicated that both he and Mr. Cross were impressed, however, with the vinyl that the Claytons have selected and encouraged the members to look favorably at their request. He said the staff recommendation honors the Guidelines as proposed but does not preclude any flexibility the Commission has to make a different recommendation, particularly since the Guidelines have not been adopted. He suggested that, if the Commission decides to recommend use of the applicants' preferred siding, its recommendation should refer to that specific product to distinguish it from the lesser-quality vinyl siding products.

Mr. Simasek asked about the material proposed by the applicants for their garage door, and Mrs. Clayton said they prefer aluminum for the garage door and would enhance its appearance with lanterns and landscaping.

Mr. Heavner believed that approving the vinyl siding could set a precedent for other allowances outside the Guidelines, which he did not necessarily think would be desirable.

Mr. Hendricks suggested that, during the Guidelines review process, the Commission and the Board consider allowing the use of appropriate, modern building materials that retain the character of the historic core.

Mr. Simasek did not agree that the overall design is justifiable for the historic district. He believes that the garage protrudes conspicuously in front of the house and doubted it would maintain the character to which the Guidelines aspire.

Mr. Semmes believed that this application should stand on its own merits and not be considered precedent-setting. The Commission can address the Guidelines at the appropriate time, he noted.

Ms. White moved the adoption of Resolution PC01-17(R), revising Condition 3 that prohibits the use of vinyl siding, to permit vinyl siding on the structure, specifically Berkshire beaded vinyl siding manufactured by Revere Company, or its equivalent. The motion carried by a roll call vote of 6:1 (Simasek dissenting).

PC01-17(R)

On motion of Mrs. White, which carried 6:1, the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO
CONSTRUCT A SINGLE-FAMILY DETACHED HOME AT 115 SMITH STREET
IN THE VILLAGE OF YORKTOWN**

WHEREAS, Howard and Marion Clayton have submitted Application No. YVA-6-01, which is a request to construct a 2,332-square foot single-family detached home, pursuant to Section 24.1-327(b) of the York County Zoning Ordinance, on a 0.19-acre parcel located at 115 Smith Street within the Yorktown Village Activity (YVA) zoning district and further identified as Assessor's Parcel No. 18A-(1)-66A; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of April, 2001, that Application YVA-6-01 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize construction of a single-family detached home on a 0.19-acre parcel located at subject to the following conditions:

1. Building plans shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the commencement of construction activities on the subject parcel. Said plans shall be in substantial conformance with the building plans prepared by Boathouse Creek Graphics, Inc. and dated February 19, 2001, a copy of which shall be kept on file in the York County Planning Division.
2. As proposed by the applicant, exterior surfaces shall be white or have a neutral color that is compatible with the paint colors likely to have been used in historic Yorktown.
3. Vinyl siding shall be limited to Revere Berkshire™ Beaded Premium Vinyl Siding or an equivalent type and manufacturer of siding with an exposure of approximately 6.0 to 6.5 inches and a nominal thickness of approximately 0.05 inches.

Application No. UP-575-01, Stephen D. Ashe: Request for a special use permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize a 965-square-foot detached accessory apartment in conjunction with a single-family detached dwelling on an 8.2 acre parcel located at 231 Jethro Lane and further identified as Assessor's Parcel No. 25-451B. The property is zoned RR (Rural Residential) and is designated for Low-Density Residential uses in the Comprehensive Plan.

Mr. Michael King summarized the staff memorandum dated March 30, 2001, following a brief video presentation. He noted the staff recommendation of approval by the adoption of proposed Resolution PC01-15.

The Chair opened the public hearing. No one came forward to speak, and he closed the hearing.

Ms. White inquired what the disposition would be of the existing ranch-style residence – proposed for conversion to a combination accessory apartment/storage space – if the application is not approved. Mr. Carter replied that before the building permit for the new residence was issued, the applicant signed an agreement to demolish the existing house before he would be issued a Certificate of Occupancy (C.O.) for his new residence.

Asked if that was accurate, **Mr. Stephen Ashe**, 231 Jethro Lane, said that it was. He said he was ready to build at the time he approached the County and, after considering several options, he posted surety with the Building Official to guarantee demolishing the existing house before being issued a C.O. He said he was aware at the time that he would need "to go through this process" if he wanted to avoid demolishing the existing residence, but he did not have enough time. Mr. Ashe said he had several family members who could use the existing home and he was trying to look out for his family.

Mr. Simasek asked Mr. Ashe if he never intended to demolish the existing house, and Mr. Ashe responded that was correct, because he needed a building permit and that was "the avenue [he] decided to go." Mr. Simasek asked Mr. Ashe about the feasibility now of demolishing the portion of the existing house that is proposed for conversion to storage and leaving only the proposed accessory apartment area. Mr. Ashe noted that the house was constructed only 20 or 30 feet from the water in what is now a Chesapeake Bay Resource Protection Area, so he did not want to disturb the area. For that reason, he added, he had constructed his new residence more than 100 feet from the water.

Mr. Shepperd said this application does not appear to be inconsistent with other accessory apartments except that it has two houses on a larger piece of property. He was uneasy with the number of accessory apartments that have recently been approved and was not enthusiastic about considering another one in the absence of firm guidelines. Mr. Simasek said he believed each application should be decided on its own merits and he didn't think the Commission would be held to what was approved in the past.

Ms. White commented that there are now two houses on one lot. Mr. Beil inquired if one septic field serves both houses and Mr. King advised separate septic fields will serve them.

Mr. Shepperd inquired about any tax ramifications of converting a 2,200 square foot residence into an apartment/storage structure and Mr. King said he did not know and that staff had not considered that because it is not relevant from a land use perspective.

Mr. Heavner asked if the applicant would have other options for the property, such as subdividing it, if the application is denied. Mr. Carter said the family subdivision process would be a likely option. Mr. King said that other alternatives, such as the family subdivision process, were available to the applicant but Mr. Ashe chose not to exercise those alternatives. Mr. King also said that eight acres is sufficient to subdivide the property.

Ms. White said it appeared that by closing off entrances the conversion would amount to a duplex unit. Mr. Semmes added that is unique for an accessory apartment. Mr. Semmes said his understanding of an accessory apartment was a small addition providing basic amenities and a separate external entrance. He asked if the existing structure is a second house or an accessory apartment because it was hard to see the difference.

Mr. Shepperd thought enforcement would be problematic since the neighbors would be unable to enforce the use.

Mr. Carter noted that the Zoning Ordinance allows accessory apartments to be either attached to or detached from the main house and, in fact, the Board has recently approved a 950-square-foot, detached accessory apartment [on Winfree Lane].

Mr. Hendricks moved the adoption of Resolution PC01-15 to recommend approval, and it carried by a roll call vote of 4:3 (Beil, White and Hendricks dissenting).

PC01-15

On motion of Mr. Hendricks, which carried 4:3, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE A DETACHED ACCESSORY APARTMENT

WHEREAS, Stephen D. Ashe has submitted Application No. UP-575-01 to request a special use permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling on property located at 231 Jethro Lane and further identified as Assessor's Parcel No. 25-451B; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of April, 2001, that it does hereby transmit Application No. UP-575-01 to the York County Board of Supervisors with a recommendation of approval, subject to the following conditions:

1. This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached dwelling to be constructed on property located at 231 Jethro Lane and further identified as Assessor's Parcel No. 25-451B.
2. Building plans shall be in conformance with the drawings submitted by the applicant and shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the commencement of any construction or conversion activities on the site.
3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. The accessory apartment unit shall not contain in excess of 965 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom.
6. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be comparable with the character of the single-family residence and adjacent properties.
7. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
8. As depicted on the sketch submitted to the Planning Division and dated March 9, 2001, the applicant shall convert the designated portions of the structure to storage space accessory to the principal residence on the property. Compliance with this requirement shall include the removal of all non-load bearing walls in the current bedrooms section of the structure, the installation of an outside entrance into this section of the structure, the closing of any passageways into this section from the accessory apartment, and installation of any fire separation walls that may be required by the Building Code. Implementation of this conversion shall be coordinated with the Building Official and shall be completed, and approved by the Building official and the Code Enforcement Supervisor, prior to issuance of the Certificate of Occupancy for the accessory apartment.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. UP-576-01, Craig Rountree Building and Remodeling: Request for a special use permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize an 800-square-foot attached accessory apartment in conjunction with a single-family detached dwelling on a 23,270 square foot parcel located at 111 Chismans Point Road.

Mr. Michael King, assisted by a brief video presentation, summarized the staff memorandum to the Commission dated April 3, 2001, in which the staff recommended approval of this application.

The Chair opened the public hearing.

Mr. Craig Rountree, 116 Production Drive, spoke in behalf of the application he filed for his client, Ms. Helen Padgett of 111 Chismans Point Road. He explained that his client would like to provide a home for her mother in the proposed apartment.

There were no others to speak, and the Chair closed the public hearing.

In response to Mr. Beil, Mr. King noted that the applicant had been issued a Chesapeake Bay waiver.

Mr. Hendricks commented that the proposed apartment is acceptable by design and intended use, although larger than the Zoning Ordinance would consider an acceptable accessory apartment.

There have been no comments from neighbors, Mr. King said in response to Ms. White.

Mr. Hendricks moved to adopt Resolution PC91-16, recommending approval. It carried 6:1 by roll call vote (Ms. White dissenting).

PC01-16

On motion of Mr. Hendricks, which carried 6:1 (Ms. White dissenting), the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO
AUTHORIZE AN ATTACHED ACCESSORY APARTMENT**

WHEREAS, Craig Rountree Building and Remodeling has submitted Application No. UP-576-01 to request a special use permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize an attached accessory apartment in conjunction with a single-family detached dwelling to be constructed on property located at 111 Chisman Point Road and further identified as Assessor's Parcel No. 25M-(1)-3; and

WHEREAS, said application has been referred to the York County Planning Commission; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of April, 2001, that it does hereby transmit Application No. UP-576-01 to the York County Board of Supervisors with a recommendation of approval, subject to the following conditions:

1. This use permit shall authorize an attached accessory apartment in conjunction with a single-family detached dwelling on property located at 111 Chismans Point Road and further identified as Assessor's Parcel No. 25M-(1)-3.
2. Building plans shall be in substantial conformance with the sketch plans submitted by the applicant and submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the commencement of any construction activities on the site.
3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. The accessory apartment unit shall not contain in excess of 800 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom.
6. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be comparable with the character of the single-family residence and adjacent properties.
7. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
8. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. PD-13-01, Rainbrook Villas, L.L.C. and Villa Development, L.L.C.:

Request to amend the York County Zoning Map by reclassifying approximately 10.5 acres located on the west side of Burts Road and further identified as parcels 29-18, 29-82, and portions of parcels 29-81, 29-82B, 29-82C, 29-82D and 29-83 from R-20 (Medium Density Residential), RC (Resource Conservation) and GB (General Business) to PD (Planned Development), to authorize the expansion of existing Rainbrook Villas from 112 units to 166 units; and a request to reclassify approximately 1.2 acres on the west side of Burts Road from R-20 (Medium Density Residential) to GB (General Business).

Ms. Olivia Wilkinson, assisted by a brief video presentation, summarized the staff memorandum to the Commission dated March 20, 2001, in which the staff recommended approval. She noted that since the video was recorded, the exact acreage has been determined to be 1.6 acres. Ms. Wilkins further

pointed out revisions to condition number 12 in the applicant's proffer statement and revisions to conditions 1.e. and 1.g. of proposed Resolution PC01-13(R).

Chair Semmes opened the public hearing.

Mr. Paul Garman, Mid-Atlantic Commercial Realty, 3630 George Washington Memorial Highway, agent for the developer, spoke in behalf of approval. Mr. Garman stated that of 112 approved units at Rainbrook Villas, 69 have been sold and 22 are reserved for sale. Thirty-four of the buyers are from York County, eight from within 10 miles of the County, and all others from out of state, he said. The average sale price is \$145,000, he said, including upgrades purchased by the residents. Each household has an average of 1.3 automobiles. Mr. Garman stated the first phase will probably be sold out and the second phase marketed beginning in the spring of 2002. He thought the experience of Rainbrook Villas proves such communities not only bring a positive cash flow, but also are in demand.

Mr. Garman said the developer has completed agreements with Newport News Waterworks to exchange property for the proposed expansion. Mr. Garman noted that the developer has a stormwater management agreement with Newport News Waterworks to use the regional stormwater pond located to the west of the subject parcels. Mr. Garman stated that the current residents of Rainbrook Villas have reviewed the expansion proposal and support the expansion with a second access. He stated that the developer is willing to delay the construction of a second access until the Burts Road realignment is complete if that is what the Commission recommends.

Mr. Garman introduced principals of the development, Messrs. Tabb Smith, Buddy Spencer, and Roger Glover, and the engineer, Mr. Charlie Newbaker.

Mr. Tabb Smith, Mid-Atlantic Commercial Realty, said the marketing goal is to sell eight units per month. Depending upon the weather, he added, the first phase should sell out sometime in the year 2002.

In response to Mr. Shepperd's request for clarification of the requested rezoning, Ms. Olivia Wilkinson clarified the existing multi-parcel zones and how they are proposed to be rezoned.

Mr. Simasek inquired of the current resale value of the individual units.

Mr. Buddy Spencer, 1609 Calthrop Neck Road, principal developer of Rainbrook Villas, said the demand for units at the 34 villages of this type nationwide would continue to grow as "baby boomers" age into their retirement years. Whenever there is strong demand and limited quantity the values should escalate.

Mr. Spencer discussed the proposed second access and the revised proffers. He said the applicant has voluntarily proffered to develop a temporary second access until work on Burts Road is completed. If the County fails to approve the second access, he continued, the applicant would apply to rezone the proposed access area to a commercial zoning designation in accordance with the current rezoning proposal.

Mr. Beil asked if the proffered gazebo and walkways are completed. He stated the Commission is firm in its commitment to sidewalks for residents and he did not see any internal sidewalks during a recent visit to the development. Mr. Garman replied that the gazebo is complete and the internal loop sidewalk will be completed as quickly as possible.

The Chair closed the public hearing.

Mr. Semmes acknowledged the staff position regarding access from Burts Road at this time, but asked if the internal street system within the development would be constructed. Ms. Wilkinson explained that the internal roadways would have to be completed but the staff does not recommend any ingress or egress at Burts Road until it has been realigned and recommends that an emergency access be established at this location as recommended by the Department of Fire and Life Safety. Ms. Wilkinson stated that the internal street system of Phase Two provides access to Phase One and recommended that Route 17 be the sole access for the development until the Burts Road realignment is completed. Staff has concerns regarding safety and traffic saturation if a second access is constructed as proposed on the existing, 16-foot-wide Burts Road, Ms. Wilkinson added. When realigned, Burts Road would meet or exceed the VDOT criteria of 22 feet for a secondary road, she explained.

Mr. Mark Carter added that safety at the unsignalized intersection of Burts Road and Route 17 is the primary basis for the staff recommendation and said that, once Burts Road is realigned, there would be a permanent entrance at Burts Road. In response to a question from Mr. Shepperd, Ms. Wilkinson noted that maintenance of the roads inside the development would be the responsibility of the homeowners' association.

Ms. White said that the development is a first class operation and does not overburden the school system.

Mr. Semmes agreed that it appears to be an excellent project.

Mr. Shepperd said it appears the drainage issues have been adequately addressed and believes it is the best use of the property. He expressed thanks to Mr. Garman for an enlightening presentation.

Mr. Simasek concurred with the others' comments, but cautioned that traffic on Route 17 will continue to grow, and expressed favor for one entrance instead of two. Mr. Semmes agreed.

Mr. Beil commended the developers for this project.

Mrs. White moved the adoption of Resolution PC01-13(R). It carried by a roll call vote of 7:0.

PC01-13(R)

On motion of Mrs. White, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO EXPAND THE RAINBROOK VILLAS PLANNED DEVELOPMENT ONTO AN ADJACENT 10.14 ACRES AND TO RECLASSIFY APPROXIMATELY 1.6 ACRES

ON THE WEST SIDE OF BURTS ROAD SUBJECT TO CERTAIN CONDITIONS
PROFFERED BY THE OWNERS OF THE PROPERTY

WHEREAS, Villa Development and Rainbrook Villas, L.L.C. have submitted Application No. PD-13-01, which requests amendment of the York County Zoning Map by reclassifying an approximately 10.14 acre piece of property from RC (Resource Conservation), R-20 (Medium Density Residential), and GB (General Business) to PD (Planned Development) and an approximately 1.6 acre piece of property from R-20 (Medium Density Residential) to GB (General Business) located on the west side of Burts Road and further identified as Assessor's Parcel No.'s 29-18, 29-82, and portions of 29-81, 29-82B, 29-82C, 29-82D, and 29-83.

WHEREAS, said application has been referred to the York County Planning Commission; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of April, 2001 the Application No. PD-13-01 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying an approximately 10.14 acre piece of property from RC (Resource Conservation), R-20 (Medium Density Residential), and GB (General Business) to PD (Planned Development) and an approximately 1.2 acre piece of property from R-20 (Medium Density Residential) to GB (General Business) located on the west side of Burts Road and further identified as Assessor's Parcel No.'s 29-18, 29-82, and portions of 29-81, 29-82B, 29-82C, 29-82D, and 29-83 and more fully identified and described as follows:

From RC (Resource Conservation), R-20 (Medium Density Residential), and GB (General Business to PD (Planned Development):

All that certain lot, piece or parcel of land situate, lying and being in the County of York, Virginia, containing approximately 10.14 acres and being known and designated as "Area proposed to be rezoned from RC, R-20, and GB to PD (10.14 acres)" as shown on that certain preliminary plan entitled "Preliminary #11, Additional Land of Rainbrook Villas" prepared by The Sirine Group, LTD., dated February 28, 2001 and more particularly described as follows:

Beginning at a point on the proposed right-of-way of the future Burts Road alignment thence proceeding along the future Burts Road right-of-way S 12°-17'-40" E 801.74 feet to a point; thence turning and leaving said future right-of-way S 74°-52'-23" W 125.81 feet to a point; thence N 77°-34'-37" W 239.36 feet to a point; thence N 17°-01'-32" W 63.43 feet to a point, thence N 73°-41'-37" W 353.76 feet to a point; thence N 06°-29'-28" W 510.11 feet to a point; thence N 80°-44'-20" E 185.97 feet to a point; the point of beginning. Said parcel being further described as the western most 441,737 SQ. FT. of properties designated as tax parcel 29-82D, 29-82, 29-82B AND 29-83 on the County of York Tax Maps; Owned by Villa Development, L.L.C., a Virginia Limited Liability Company and recorded in the Clerk's Office of the Circuit Court for the County of York, Virginia in D.B. , P. .

From R-20 (Medium Density Residential to GB (General Business))

All that certain lot, piece or parcel of land situate, lying and being in the County of York, Virginia, containing approximately 1.6 acres and being known and designated as "Area proposed to be rezoned from R-20 to GB (1.58 acres)" as shown on that certain preliminary plan entitled "Preliminary #11, Additional Land of Rainbrook Villas" prepared by The Sirine Group, LTD., dated February 28, 2001 and more particularly described as follows:

Beginning at a point on the proposed right-of-way of the future Burts Road alignment thence proceeding along the future Burts Road right-of-way N 12°-17'-40" W 335.71 feet to a point; thence turning and leaving said future right-of-way of Burts Road S 78°-35'-43" E 316.95 feet to a point on the western right-of-way of the existing Burts Road; thence S 07°-15'-45" W 198.87 Feet to a point, thence turning and leaving said right-of-way and running S 72°-21'-47" W 224.62 Feet to a point, the point of beginning. Said parcel being further described as the eastern most 68,975 SQ. FT. or 1.583 Acres of properties designated as Tax Parcel 29-82C AND 29-82D on the County of York Tax Maps; Owned by Villa Development, L.L.C., a Virginia Limited Liability Company and recorded in the Clerk's Office of the Circuit Court for the County of York, Virginia in D.B. , P. .

BE IT FURTHER RESOLVED that the Commission recommends that the following conditions apply to the development of the above-described property under the PD classification:

1. General Layout, Design, and Density

- a. Except as specifically modified herein, a site plan shall be submitted for the development of this property and shall proceed in accordance with the plan entitled, "Preliminary #11, Additional Land of Rainbrook Villas" prepared by The Sirine Group, Inc., and dated 2/28/01. Substantial deviation, as determined by the Zoning Administrator, from the general design and layout as submitted or amended herein shall require resubmission and approval in accordance with all applicable provisions as established by the York County Zoning Ordinance.
- b. Except as modified herein, the layout and design of this development shall comply with the Planned Development regulations as provided in Section 24.1-360 of the York County Zoning Ordinance.
- c. The maximum number of residential units shall be 166.
- d. Street trees at least 1-1/2 inches in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals along the outer loop of the interior road in Phase One of the development. Street trees at least 1-1/2 inches in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals along both sides of the interior road proposed to be extended from Phase One to an intersection with realigned Burts Road.

2. Streets and Circulation

- a. Roadway design and construction shall be in substantial conformance with the Development Plan. The design and construction of all streets shall adhere to the street and roadway standards established for public streets by the County and the Virginia Department of Transportation (VDOT). The applicant shall bear responsibility for installing all roadway improvements.
- b. All streets shall be of a curb and gutter design; roll-top curb shall be permissible throughout the development.
- c. In order to provide for safe and convenient pedestrian circulation, the project shall include a four foot (4') wide sidewalk as shown on the concept plan with connections to the pedestrian trails also shown on the concept plan.
- d. Street lighting shall be provided at each street intersection and at other such locations determined by the subdivision agent to maximize vehicle and pedestrian safety. The design of the street lighting shall be consistent with the design and character of the development.
- e. The developer shall dedicate to VDOT within 60 days upon notice by VDOT sufficient right-of-way on the subject property necessary for the completion of the Grafton Drive and Burts Road realignment connector (as shown on the concept plan) that is included in the County's Six-Year Secondary Road Improvement Plan.
- f. The developer shall establish an emergency services access, acceptable to the Department of Fire and Life Safety, to Phase Two of the development. The emergency access drive shall be constructed with a compacted gravel base overlaid with a layer of soil capable of supporting grass and accommodating the weight of large fire and rescue apparatus. This connection shall also be gated and locked to prevent all access other than emergency services vehicles.
- g. Upon completion of the Burts Road/Grafton Drive realignment, the developer shall abandon the temporary access on Route 17 (Parcel 29-18) and construct a permanent entrance to serve Phase One, acceptable to the County and VDOT, on realigned Burts Road. In addition, upon completion of the Burts Road/Grafton Drive realignment, the developer shall construct a second permanent entrance to serve Phase Two, acceptable to the County and VDOT, on realigned Burts Road.

3. Utilities and Drainage

- a. Public sanitary sewer service shall serve this development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and in accordance with all applicable regulations and specifications. The applicant shall grant to the County all easements deemed necessary by the County for the maintenance of such sewer lines.
- b. A public water supply and fire protection system shall serve the development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and the Department of Fire and Life Safety in accordance with all applicable regulations and

specifications. The applicant shall grant to the County or the City of Newport News all easements deemed necessary by the County for maintenance of such water lines.

- c. The development shall be served by a stormwater collection and management system, the design of which shall be approved by the County Administrator or his designated agent in consultation with VDOT and in accordance with applicable regulations and specifications. Any easements deemed necessary by the County for maintenance of the stormwater system shall be dedicated to the County; however, the County shall bear no responsibility for such maintenance.
- d. The homeowners' association shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development.

5. Open Space and Recreation

- a. The location and arrangement of open space shall be generally as depicted on the plan entitled, "Preliminary #11, Additional Land of Rainbrook Villas," dated 2/28/2001.
- b. A minimum of 7.4 acres of open space shall be provided. Said open space may include water management facilities, environmentally sensitive areas, roadside buffers, and recreation space.
- c. A minimum of 3.0 acres of recreation space shall be provided. Said recreation space shall be developed, at a minimum, with a pedestrian pathway, park-style benches along the pedestrian pathway, and an enclosed-screened gazebo as indicated on the master plan. The physical design of the pedestrian pathway shall be designed in such a manner as to accommodate the walking/exercise needs of active seniors and the physically challenged.
- d. The recreation area and facilities designated for the originally approved project, including the pedestrian pathway, must be developed and available for use on or before the occupancy of the twenty-fifth (25th) unit or by the end of the fifth (5th) year from the start of construction, whichever occurs first.
- e. The recreation area and facilities designated for the expansion of the project, including the pedestrian pathway, must be developed and available for use on or before the occupancy of the one hundred thirty-second (132nd) unit or by the end of the fifth year from the start of construction, whichever occurs first.
- f. The location and manner of development for the recreation area shall be fully disclosed prior to closing in plain language to all home purchasers in this development.
- g. All landscaped buffer areas shown on the master plan or required herein shall be encumbered with landscape preservation easements running to the benefit of the County or homeowners' association. Such easements shall stipulate that the described land will remain in its natural state and preclude future or additional development; such easements shall be acceptable as to content and form to the County Attorney.

- h. All common open space and recreational facilities shall be protected and perpetual maintenance guaranteed by appropriate covenants as required in the York County Zoning Ordinance and submitted with development plans for the project.
- i. All recreational services, facilities, and equipment shall be subject to approval by the Division of Parks and Recreation Manager for their consistency with the applicant's proffered conditions and recreational requirements as listed in the Planned Development regulations in the Zoning Ordinance.

6. Environment

- a. Prior to final plan approval, the applicant shall obtain all wetland permits required by federal and state regulations and submit copies of these permits, or evidence that such permits are unnecessary, to the Zoning Administrator.
- b. A major water quality impact study shall be submitted with the development plan consistent with the provisions stated in Section 24.1-372, Environmental Management Area Overlay District.

7. Proffered Conditions

The reclassification shall be subject to the conditions voluntarily proffered by the property owners in the proffer statement entitled, "Statement of Proffers (Revised 2-22-01)," except for condition numbers 9B and 10B, which are attached hereto and made a part hereof by reference.

8. Restrictive Covenants

Prior to final plan approval, the applicant shall submit restrictive covenants for review by the County Attorney for their consistency with the requirements of Section 24.1-497, *Declaration of Covenants and Restrictions*, of the Zoning Ordinance.

NEW BUSINESS

Mr. Semmes mentioned the appointment of Mr. Carter to the position of Planning and Zoning Manager and promotion of Mr. Cross to Principal Planner. Mr. Carter explained that the long-vacant Chief Planner position has now been eliminated.

STAFF REPORTS

The Commissioners reviewed the upcoming meetings on their schedules. Mr. Carter indicated the staff would prepare handouts for the May 9 work session during which it will be necessary to decide what it wants to do with regard to Application ZT-56-01 or else conduct another special meeting before the June 13 regular meeting in order to meet the deadline for sending a recommendation to the Board of Supervisors. He also asked that the staff be advised if the Commission wants to hold another public

hearing on this application during the regular June meeting. The members concurred that it would not be advantageous for the Commission to conduct another public hearing for this application.

RECENT ACTIONS BY THE BOARD OF SUPERVISORS

Mr. Carter reported on recent actions by the Board. He advised the members of a Board request for \$500,000 from the VDOT revenue sharing program which, if allocated, will be used to offset some costs of the Yorktown waterfront project.

COMMISSION REPORTS AND REQUESTS

Chair Semmes welcomed Ms. Peggy Wildman, a member of the James City County Planning Commission.

Some of the Commissioners requested some more rigid guidelines for accessory apartments, including comparison to surrounding jurisdictions. Mr. Carter said the staff will try to get some materials on accessory apartments to the members within approximately a month.

FUTURE BUSINESS

Mr. Carter said the Commission agenda in May will include Application ZT-56-01 (marina text amendment) and the Chesapeake Bay-related amendments to the Comprehensive Plan.

ADJOURNMENT

There being no further business, Chair Semmes called adjournment at 9:40 p.m.

SUBMITTED: _____/s/_____
Phyllis P. Liscum, Secretary

APPROVED: _____/s/_____
Spencer W. Semmes, Chair

DATE: May 9, 2001